HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.321 of 2007

Between:

B. Muralidhar

… Appellant

And

The Director of School Education,
Govt. of A.P., Saifabad, Hyderabad
and five others

… Respondents

::JUDGMENT::

Counsel for the appellant : Shri C.S.K.V. Ramana Murthy

April 19, 2007

Per G.S. Singhvi, C.J.

This appeal is directed against order dated 8-3-2007 passed by the learned Single Judge in WPMP No.5007 of 2007 in Writ Petition No.4452 of 2006, whereby he declined the appellant's prayer for stay of orders dated 30-11-2005 and 23-11-2006 passed by Director of School Education, Government of Andhra Pradesh (respondent No.1) and Principal Secretary to Government, Secondary and School Education (respondent No.6) respectively.

In the main writ petition filed by him, the appellant has questioned the legality of order dated 30-11-2005 on several grounds including the one that before declaring him unfit to act as Correspondent of Sri Ravindra High School (Aided), Gadwal, Mahbubnagar or any other school, respondent No. 1 did not give him

reasonable opportunity of hearing.

It is borne out from the record that during the pendency of the writ petition, the State Government vide its order dated 23-11-2006 dismissed the appeal preferred by the appellant. Thereafter the appellant sought and was granted leave to amend the writ petition. However, W.P.M.P.Nos. 4452 of 2006 and 5007 of 2007 filed by him for stay of orders dated 30.11.2005 and 23.11.2006 were dismissed by the learned Single Judge because he felt that stay of the impugned orders will result in virtual adjudication of the main petition.

Shri C.S.K.V. Ramana Murthy, learned counsel for the appellant reiterated the grounds set out in the main writ petition and argued that the appellant cannot be deprived of his legitimate right to continue as Correspondent and the orders impugned in the writ petition are liable to be ignored, because the original order was passed without complying with the basics of natural justice.

Shri Murthy further argued that even though the District Educational Officer is presently holding the charge of the post of Correspondent of the school, the Court should direct the respondents to allow the appellant to function as Correspondent, else the management of the institution is bound to be adversely affected.

We have given serious thought to the arguments of the learned counsel, but have not felt impressed. Rather, we are convinced that the learned Single Judge did not commit any error by refusing to stay the orders impugned in the writ petition.

The admission of the writ petition is indicative of the fact that the petitioner-appellant has been able to make out an arguable case, but that by itself is not sufficient for passing an order of stay ex debito justitiae. The factors like irreparable injury and balance of convenience are clearly against the stay of the orders which are subject matter of challenge in the writ petition. A reading of order dated 30-11-2005 shows that the appellant was found guilty of committing irregularities. Whether or not that order will survive judicial

scrutiny will depend on consideration of the pleadings and arguments of the learned counsel and, at this stage, we cannot speculate the final result. If the writ is allowed, the Court may quash orders dated 30-11-2005 and 23-11-2006. The Court may also order reinstatement of the appellant or direct the competent authority to pass fresh order after complying with the rules of natural justice. It is also possible that the writ petition may be ultimately dismissed. Therefore, the balance of convenience is not in favour of staying the operation of the orders impugned in the writ petition. In any case, there can be no justification to pass an interlocutory order, which will have the effect of removing the District Educational Officer, who, as mentioned above, is currently holding the charge of the post of Correspondent of the school.

For the reasons stated above, the appeal is dismissed.

As a sequel to dismissal of the writ appeal, WAMP No. 618 of 2007 filed by the appellant for interim relief is disposed of as infructuous.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

April 19, 2007
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